

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff;

v.

COMMONWEALTH OF PUERTO RICO,  
ET AL.,

Defendants.

No. 12-cv-2039 (GAG)

**MOTION TO RESTRICT UNITED STATES' SUR-REPLY IN OPPOSITION**

COMES NOW, Plaintiff, the United States of America, by and through the undersigned counsel, and respectfully moves to restrict its Sur-Reply in Opposition to Defendants' Motion to Restrict the Filing of Paragraph 241 Survey Reports for viewing by counsel for the Parties only, in compliance with Standing Order No. 9, *Amendment to the Restricted Filing and Viewing Levels Module*, Misc. No. 03-149 (Jan. 30, 2013). The United States seeks to restrict its Sur-Reply insofar as the Court has restricted the underlying pleadings from public view. As noted in its motion to restrict its response brief, USA Mot. to Restrict, ECF 1407, the United States disagrees with Defendants' rationale for seeking to restrict their Motion to Restrict Surveys from the public and may seek to unrestrict the filings once the Court rules on the Motion to Restrict Surveys. Therefore, the United States seeks to restrict its Sur-Reply until further ordered by the Court. For cause, the United States respectfully states and prays:

1. On January 27, 2020, Defendants filed a Motion Submitting Defendants' Arguments in Support of Restricted Filing of Paragraph 241 Survey Reports (Motion to Restrict Surveys), ECF 1397.

2. Defendants simultaneously filed a motion to restrict viewing of their Motion to Restrict Surveys (“Defendants’ First Motion to Restrict”), ECF 1396, and the Court granted the request the following day. *See*, Order, ECF 1399. In Defendants’ First Motion to Restrict, Defendants claimed—without evidence or legal support—that public interest supports eliminating the public’s access to their Motion to Restrict Surveys because its arguments are “sensitive” with “potential repercussions in public opinion and the reform process.” ECF 1396.

3. On February 10, 2020, the United States moved to restrict its Opposition to Defendants’ Motion to Restrict the Filing of Paragraph 241 Survey Reports to comply with this Court’s Standing Order No. 9. *See* USA Mot. to Restrict, ECF 1407. In its motion, the United States noted Defendants have the burden to justify restricting the public’s access to the judicial records at issue, and they failed to meet their burden by simply relying on conclusory assertions of “sensitive” arguments and “potential repercussions.” *Id.* at ¶ 3, ECF 1407. Nonetheless, the United States’ was bound to submit a response brief in opposition to a restricted motion in restricted mode. *See id.* (citing Standing Order No. 9).

4. The same day the Court granted the United States’ Motion to Restrict. Order, ECF 1408. The United States subsequently filed its opposition brief in restricted mode. ECF 1409.

5. On February 14, 2020, Defendants filed its Reply in Further Support of Defendants’ Motion at Docket No. 1397 (Reply in Support of Motion to Restrict Surveys), ECF 1416.

6. Pursuant to Standing Order No. 9, Defendants filed a second motion to restrict, related to their Reply in Support of Motion to Restrict Surveys (“Defendants’ Second Motion to Restrict”). ECF 1415. The Court granted the request. Order, ECF 1417. In Defendants’ Second

Motion to Restrict, Defendants provided no additional justification for restricting filings related to its Motion to Restrict Surveys. ECF 1415.

7. Defendants First and Second Motions to Restrict fail to meet their burden to overcome the public's presumptive access to Defendants' Motion to Restrict Surveys and related filings. Defendants rely exclusively on conclusory assertions without establishing good cause based on particular facts of potential harm. *See In re Providence Journal Co., Inc.*, 293 F.3d 1, 9-10 (1st Cir. 2002); *F.T.C. v. Standard Fin. Mgmt. Corp.*, 830 F.2d 404, 412-13 (1st Cir. 1987).

WHEREFORE, the United States respectfully requests leave to file its Sur-Reply in Opposition to Defendants' Motion to Restrict the Filing of Paragraph 241 Survey Reports in restricted mode for viewing only by the Parties until further ordered by the Court.

WE HEREBY CERTIFY that on today's date, we filed the foregoing pleading electronically through the CM/ECF system, which caused the parties, counsel of record, and the Acting Monitor on the service list to be served by electronic means.

Respectfully submitted, this 26th day of February, 2020,

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s/ Jorge M. Castillo

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